

**UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS**

BROADCAST MUSIC, INC.; EMI BLACKWOOD
MUSIC, INC.; HIDDEN PUN MUSIC, INC.; KISSING BOOTH
MUSIC, INC.; TOTALLED, INC. d/b/a SUSHI TOO MUSIC;
CARL PERKINS MUSIC, INC.; FOURTEENTH HOUR
MUSIC, INC.; PRONTO MUSIC, a division of COTILLION
MUSIC, INC.; SONY/ATV SONGS LLC d/b/a SONY/ATV TREE
PUBLISHING; WARNER- TAMERLANE PUBLISHING CORP.;
UNIVERSAL-DUCHESS CORPORATION; EMI VIRGIN
SONGS, INC. d/b/a EMI LONGITUDE MUSIC;
PEERMUSIC III LTD.; STEPHANIE NICKS, an individual d/b/a
WELSH WITCH MUSIC; SONY/ATV SONGS LLC d/b/a
SONY/ATV ACUFF ROSE MUSIC; COMBINE MUSIC CORP.;
SPRING-TIME MUSIC, INC.; ZOMBA SONGS INC.;
PAUL A. GEORGE, LUCIEN GEORGE, CURTIS BEDEAU,
BRIAN GEORGE, GERARD CHARLES and HUGH CLARKE,
a partnership d/b/a FORCEFUL MUSIC; EMBASSY MUSIC;
JOHN CAFFERTY, JR. d/b/a JOHN CAFFERTY MUSIC;
FREDERICK S. BIENSTOCK and HAMMERSTEIN MUSIC &
THEATRE COMPANY, INC., a Connecticut partnership d/b/a
EDWARD B. MARKS MUSIC COMPANY; DANDELION
MUSIC CO., a division of JAMIE MUSIC PUBLISHING CO.;
STONE DIAMOND MUSIC CORP.; SHERYL SUZANNE CROW
d/b/a OLD CROW MUSIC; JEFF TROTT d/b/a TROTTSKY
MUSIC; UNIVERSAL-SONGS OF POLYGRAM
INTERNATIONAL, INC.; FUEL PUBLISHING INC. d/b/a
PENER PIG PUBLISHING; PAINTED DESERT MUSIC
CORPORATION,

Plaintiffs,

v.

GILLIAN'S SPORTS CAFÉ, INC. d/b/a GILLIAN'S SPORTS
CAFÉ and KIMBERLY A. WHITE and DAVID W. WHITE, each
individually,

Defendants.

Civ.A.No.: 04cv12514NMG

DECLARATION OF AMY C. MAINELLI

I, Amy C. Mainelli, of Cambridge, Massachusetts, hereby under oath declare as follows:

1. I am an associate at Kotin, Crabtree & Strong, LLP and we represent plaintiffs Broadcast Music, Inc. et al in this action.
2. Defendants were properly served with process in hand on December 1, 2004, at their usual place of abode. See return of service attached hereto as Exhibit A.
3. Defendants contacted me after they were served and defendant David White indicated they would be representing themselves *pro se*. Mr. White represented that they were interested in reaching a settlement and that they would provide further information to aid in settlement negotiations. After numerous telephone calls back and forth, defendants provided no further information and stopped communicating with me.
4. Despite defendants' representations that they were interested in reaching settlement, they failed to respond my numerous telephone calls and made no further contact.
5. I sent defendants a letter dated February 11, 2005, stating that since they had failed to respond to my numerous telephone calls, the enclosed Demand for Entry of Default would be filed that day. A copy of the letter attached hereto as Exhibit B.
6. The Court entered a Notice of Default on March 16, 2005. Upon receiving no further communications from defendants, plaintiffs then filed a Motion for Default Judgment on June 6, 2005, which I served on defendants via first class mail to their business and home addresses.
7. On October 26, 2005, the court granted plaintiffs' Motion for Default Judgment in the amount of \$20,812.50 plus attorneys' fees. Plaintiffs filed a Motion for Entry of Judgment on October 31, 2005, including attorneys' fees and expenses, for a total judgment of \$23,838.30. Defendants' were served with the motion on October 31, 2005 via first class mail to

their business and home addresses.

8. Defendant David White contacted me on November 7, 2005 and left a voicemail. An attorney also contacted me on November 7, 2005 claiming that defendants were considering retaining him and that I should wait to hear back from him or David White.
9. Defendant David White contacted me again on November 16, 2005, stating defendants were not represented by an attorney, but inquiring as to the judgment. I explained that a judgment in the amount of \$20,812.50 plus attorneys' fees was entered on October 26, 2005 and asked if he was interested in resolving this matter with plaintiffs. He then put me on hold and said he would call back. He has made no further contact to date.
10. Defendants filed the present Motion to Vacate Judgment on December 2, 2005, without conferring with me pursuant to Local Rule 7.1. In addition, defendants failed to serve the motion and filed no supporting affidavit with their Motion to Vacate Judgment.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY UNDER THE LAWS OF
THE UNITED STATES OF AMERICA.

December 12, 2005
Date

/s/ Amy C. Mainelli
Amy C. Mainelli

UNITED STATES DISTRICT COURT

District of Massachusetts

BROADCAST MUSIC, INC., et al

SUMMONS IN A CIVIL ACTION

V.
 GILLIAN'S SPORTS CAFE, INC. d/b/a
 GILLIAN'S SPORTS CAFE and KIMBERLY
 A. WHITE and DAVID W. WHITE, each
 individually

CASE NUMBER:

04 12514 NMG

TO: (Name and address of Defendant)

Kimberly A. White
 3 Forge Road
 Kingston, MA 02364

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Amy C. Mainelli, Esquire
 Kotin, Crabtree & Strong, LLP
 One Bowdoin Square
 Boston, MA 02114

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

CLERK

(By) DEPUTY CLERK



DATE

11/30/2004

RETURN OF SERVICE

Service of the Summons and complaint was made by me⁽¹⁾ DATE 12-1-2004

NAME OF SERVER (PRINT) Thomas H. Savage

TITLE

Check one box below to indicate appropriate method of service

☒ Served personally upon the defendant. Place where served:

3 Forest Rd Kingston Mass (in Home)

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

☐ Returned unexecuted:

☐ Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL

SERVICES

TOTAL \$0.00

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 12-1-2004
 Date

Signature of Server

427 Neck St Weymouth Mass
 Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT

District of Massachusetts

BROADCAST MUSIC, INC., et al

SUMMONS IN A CIVIL ACTION

V.

GILLIAN'S SPORTS CAFE, INC. d/b/a
GILLIAN'S SPORTS CAFE and KIMBERLY
A. WHITE and DAVID W. WHITE, each
individually.

CASE NUMBER:

04 12514 NMG

TO: (Name and address of Defendant)

David W. White
3 Forge Road
Kingston, MA 02364

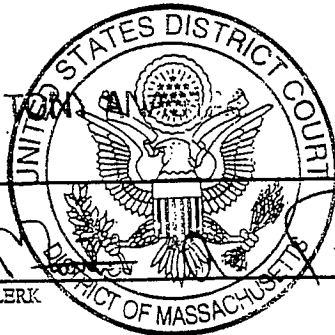
YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Amy C. Mainelli, Esquire
Kotin, Crabtree & Strong, LLP
One Bowdoin Square
Boston, MA 02114

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

CLERK

(By) DEPUTY CLERK



DATE

11/30/04

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	12-1-2004
NAME OF SERVER (PRINT) Thomas L. Savage	TITLE	
Check one box below to indicate appropriate method of service		
<div style="display: flex; flex-direction: column; gap: 10px;"> <div> <input type="checkbox"/> Served personally upon the defendant. Place where served: </div> <div> <input checked="" type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: <u>Kimberly A. White (in hand)</u> </div> <div> <input type="checkbox"/> Returned unexecuted: </div> <div> <input type="checkbox"/> Other (specify): </div> </div>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;"> <p>Executed on <u>12-1-2004</u></p> <p>Date</p> </div> <div style="text-align: center;"> <p>Signature of Server</p> </div> </div> <div style="text-align: center; margin-top: 20px;"> <p><u>427 Neck St Weymouth, Mass</u></p> <p>Address of Server</p> </div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT

District of Massachusetts

BROADCAST MUSIC, INC., et al

SUMMONS IN A CIVIL ACTION

V.

GILLIAN'S SPORTS CAFE, INC. d/b/a
GILLIAN'S SPORTS CAFE and KIMBERLY
A. WHITE and DAVID W. WHITE, each
individually

CASE NUMBER:

04 12514 NMG

TO: (Name and address of Defendant)

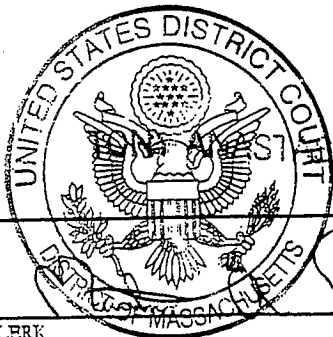
Agent for service of process for
GILLIAN'S SPORTS CAFE, INC.

~~Timothy J. Cleary, Esquire
18 Cottage Avenue
Quincy, MA 02169~~

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Amy C. Mainelli, Esquire
Kotin, Crabtree & Strong, LLP
One Bowdoin Square
Boston, MA 02114

an answer to the complaint which is served on you with this summons, within 20 days after service
of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you
for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the
Clerk of this Court within a reasonable period of time after service.

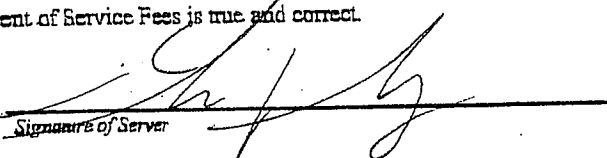


CLERK

(By) DEPUTY CLERK

DATE

11/30/04

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	12-1-2004
NAME OF SERVER (PRINT) Thomas L. Shvach	TITLE	
Check one box below to indicate appropriate method of service		
<input checked="" type="checkbox"/> Served personally upon the defendant. Place where served: 3 Fozar R. Kingston, Mass. by Henry D. Kinachy A White AN OFFICER OF TAT CORP.		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:		
<input type="checkbox"/> Returned unexecuted:		
<input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on 12-1-2004	 Signature of Server	
Date	427 Neck St Weymouth, Mass Address of Server	

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

KOTIN, CRABTREE & STRONG, LLP

ATTORNEYS AT LAW

ONE BOWDOIN SQUARE

BOSTON, MASSACHUSETTS 02114-2925

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AMY H. WEINSTEIN
LAUREL H. SIEGEL
SHERRY L. RUSCHIONI
AMY C. MAINELLI**

**ALSO ADMITTED IN RI

*ALSO ADMITTED IN NH

February 11, 2005

VIA FIRST CLASS MAIL

David W. White and Kimberly A. White
Gillian's Sports Café, Inc.
3 Forge Road
Kingston, Massachusetts 02364

Re: BMI, Inc., et al. v. Gillian's Sports Café, Inc., et al.
Civil Action No.: 04 cv 12514 NMG

Dear Mr. and Ms. White:

As you have not responded to my numerous telephone calls or my request for further financial information, enclosed please find a Demand for Entry of Default which was filed with the Court today.

Please contact me if you have any questions.

Very truly yours,



Amy C. Mainelli

Enclosure

cc: John Colletta
William S. Strong